

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35496

DENVER & RIO GRANDE RAILWAY HISTORICAL FOUNDATION D/B/A DENVER &
RIO GRANDE RAILROAD, L.L.C.—PETITION FOR DECLARATORY ORDER

Decided: October 16, 2014

In a decision served on August 18, 2014, the Board found that the activities on a parcel of land leased by Denver & Rio Grande Railway Historical Foundation (DRGHF) in the City of Monte Vista, Colo., do not constitute transportation within the Board's jurisdiction and, as a consequence, concluded that a local ordinance prohibiting storage of railcars on unconnected pieces of track is not preempted with respect to the parcel.

On September 8, 2014, DRGHF filed a petition asking the Board to reconsider the decision. In its petition (at 13), DRGHF indicates that it has hired Eric Strohmeyer as its Director of Freight Operations and that he "will be filing a verified statement in this proceeding detailing [DRGHF's] past, present, and future plans and initiatives." Subsequently, on September 30, 2014, Strohmeyer filed a "Notice of Intent to Participate With Comments" ("Notice"). The Notice indicated that "in addition to holding a position within [DRGHF]," Strohmeyer "will also participate in this proceeding in his individual capacity" and included some substantive comments filed in Strohmeyer's individual capacity. By letter also filed on September 30, 2014, Strohmeyer requested an extension of time to October 20, 2014, by which to file his verified statement as DRGHF's Director of Freight Operations in support of DRGHF's petition, citing the need to respond to discovery in another Board matter and the temporary unavailability of DRGHF Executive Director Donald Shank and his brother to provide necessary documents.

In light of the temporary unavailability of Mr. Shank and his brother and the need for Strohmeyer to respond to discovery in another Board matter, the request for an extension of time to October 20, 2014, for filing a verified statement by Eric Strohmeyer, *in his capacity as DRGHF's Director of Freight Operations*, will be granted. Additionally, because DRGHF is being permitted to, in effect, supplement its petition and the deadline for responses to that petition has passed, interested persons will be permitted to respond to the Strohmeyer verified statement by no later than 10 days after it is filed.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. DRGHF may file a verified statement by Eric Strohmeier in support of its petition for reconsideration by October 20, 2014.
2. Interested persons may respond to Strohmeier's verified statement within 10 days of its filing date.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.